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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 JULIA POWELL KELLER-MCINTYRE, No. C-06-3209 MMC (EMC)  
9 Plaintiff,

10 v.

11 COLLEGE OF HEALTH & HUMAN  
12 SERVICES, SAN FRANCISCO STATE  
UNIVERSITY,

## **ORDER RE OBJECTIONS DURING DEPOSITIONS AND PLAINTIFF'S REQUEST FOR ONE ADDITIONAL DEPOSITION AND EXTENSION OF TIME**

13 | Defendant.

16 On October 17, 2006, the Court held a telephone conference call to address discovery  
17 disputes raised by Ms. Keller-McIntyre in an e-mail.<sup>1</sup> The Court also discussed with the parties a  
18 motion recently filed by Ms. Keller-McIntyre, in which she asked for permission to take the  
19 deposition of Provost John Gemello and for an extension of time to designate an expert. This order  
20 memorializes the rulings of the Court made during the course of the conference call.

21 || A. Deposition of Russell Kilday-Hicks

22 Defense counsel may object at any point during the deposition in order to preserve the  
23 objection(s). However, in general, the objection should be no longer than two or three words (*e.g.*,  
24 lack of personal knowledge, speculative, vague/ambiguous, calls for legal conclusion). Unless  
25 defense counsel specifically instructs the deponent not to answer, the deponent should answer the  
26 question (to the extent that he is able). Although the Court provides this guidance for the deposition

<sup>1</sup> As noted in the Court's order located at Docket No. 92, the Court will not in the future consider any e-mails sent by either party.

1 of Mr. Kilday-Hicks, it expects that the parties should conduct themselves in accordance with this  
2 order for all future depositions of defense witnesses.

3 B. Deposition of Richard Dziadur

4 According to Ms. Keller-McIntyre, she recently filed a motion asking for the same relief  
5 sought in her e-mail (*i.e.*, to redepose Richard Dziadur and to have the College pay for the costs of  
6 the deposition because of alleged improper conduct by defense counsel during the deposition). The  
7 Court therefore shall await receipt of the motion before ruling on the merits of this discovery  
8 dispute. In order to assess Ms. Keller-McIntyre's claims that defense counsel acted improperly  
9 during the deposition, she must provide the Court with *specific examples* of improper conduct by  
10 defense counsel.

11 Assuming that Ms. Keller-McIntyre's motion is substantively the same as her e-mail and  
12 fails to provide specific examples of improper conduct by defense counsel, the Court shall give her  
13 until October 27, 2006, to file with the Court *and* serve on defense counsel supplemental evidence  
14 establishing specific examples of improper conduct by defense counsel. Thereafter, the College  
15 shall have until November 1, 2006, to file an opposition to Ms. Keller-McIntyre's motion. There  
16 shall be no reply brief. Based on the papers submitted, the Court shall decide whether a telephone  
17 conference call or formal hearing is needed.

18 C. Ms. Keller-McIntyre's Request to Take the Deposition of John Gemello

19 The Court **DENIES** Ms. Keller-McIntyre's request to take one additional deposition, *i.e.*, the  
20 deposition of Mr. Gemello. Mr. Gemello is not one of the relevant decision makers.

21 D. Ms. Keller-McIntyre's Request for an Extension of Time to Designate an Expert

22 The Court **GRANTS** Ms. Keller-McIntyre's request for an extension of time to designate an  
23 expert. However, the Court shall only give Ms. Keller-McIntyre until December 1, 2006, to  
24 designate an expert. Although not addressed by the Court during the conference call, as a matter of  
25 fairness, the College shall have until December 15, 2006, to designate a rebuttal expert. The College  
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27 ///

28 ///

1 shall be given one extra week -- *i.e.*, until December 22, 2006 -- to take the deposition of any expert  
2 designated by Ms. Keller-McIntyre. Likewise, should the College designate a rebuttal expert, Ms.  
3 Keller-McIntyre shall have until December 22, 2006, to take the deposition of the expert.

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5 IT IS SO ORDERED.

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7 Dated: October 18, 2006

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EDWARD M. CHEN  
United States Magistrate Judge

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JULIA POWELL KELLER-MCINTYRE, No. C-06-3209 MMC (EMC)  
Plaintiff,

v.

COLLEGE OF HEALTH & HUMAN  
SERVICES, SAN FRANCISCO STATE  
UNIVERSITY,

Defendant.

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the U.S. District Court, Northern District of California. On the below date, I served a true and correct copy of the attached, by placing said copy/copies in a postage-paid envelope addressed to the person(s) listed below, by depositing said envelope in the U.S. Mail; or by placing said copy/copies into an inter-office delivery receptacle located in the Office of the Clerk.

Julia Powell Keller-McIntyre  
P.O. Box 320662  
San Francisco, CA 94132  
415/314-4204 (cell)  
415/405-3943 (work)

**ALL OTHER COUNSEL/PARTIES TO  
RECEIVE ORDER VIA ELECTRONIC  
FILING**

Dated: October 18, 2006

RICHARD W. WIEKING, CLERK

By: \_\_\_\_\_/s/  
Leni Doyle  
Deputy Clerk